

### §7102. Definitions - Added:

(j) Similarly Employed means employed in an occupation which requires the same or similar level of education, training and experience as the occupation for which certification is requested. All workers in identical occupational categories shall be considered similarly employed in spite of education, training and experience levels for a specific job opportunity.

(k) For the purposes of these regulations Performance & Payment Bond shall have the same meaning as Wage Bond and is defined as a form of surety which guarantees payment of wages for workers associated with a project.

(l) ALPCD shall mean the Alien Labor Processing & Certification Division of the Guam Department of Labor

(m) Direct Employee shall mean employment in which an employer has hiring and firing authority; has direct day to day supervision of the worker; pays the worker's wages; and withholds and transmits local taxes on behalf of the worker.

### §7103 – Added:

The Director of Labor, in consultation with the Governor of Guam may temporarily institute policies to deal with emergent situations which include, but are not limited to, natural disasters, sudden changes in immigration regulations and numerical limitations of visas. These temporary policies may not conflict with the basic process of determining availability of U.S. workers and determining prevailing wages as required by federal regulations.

Note: This language was inserted to allow certain leeway for the Director to adjust the program to deal with unusual situations which may occur that would impact service delivery or integrity of the program. Such situations have been quickly closing H-2B caps, unexpected changes in immigration law and economic downturns.

### § 7103(c)(1) - Added:

Temporary Labor Certifications issued for importation purposes may not be used for the extension of existing workers and likewise, temporary labor certifications granted for extension purposes may not be used for importing new workers.

Note: Temporary labor certifications are granted with consideration given to documents submitted by the employer and fact finding done by the caseworker. The employer's intention to extend existing workers as opposed to importing new workers weighs heavily on the decision to be made on the application. By adding this regulation, the employer is prohibited from using a labor certification in a manner for which it was not intended and DOL may issue penalties for non-compliance. Click [here](#) to read and/or download the [Analysis of new Guam Administrative Rules for H-2B workers](#) in it's entirety. (pdf format)

